

# **EDMONDS CITY COUNCIL APPROVED MINUTES**

## **September 22, 2015**

The Edmonds City Council meeting was called to order at 6:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds.

### **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Adrienne Fraley-Monillas, Council President  
Diane Buckshnis, Councilmember  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Joan Bloom, Councilmember  
Michael Nelson, Councilmember

### **ELECTED OFFICIALS ABSENT**

Thomas Mesaros, Councilmember

### **ALSO PRESENT**

Ari Girouard, Student Representative

### **STAFF PRESENT**

Al Compaan, Police Chief  
Patrick Clark, Police Officer  
Phil Williams, Public Works Director  
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.  
Shane Hope, Development Services Director  
Rob English, City Engineer  
Mary Ann Hardie, Human Resources Manager  
Kernen Lien, Senior Planner  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

### **SPECIAL MEETING**

#### **1. CONVENE IN EXECUTIVE SESSION TO DISCUSS REAL ESTATE PER RCW 42.30.110(1)(c) AND POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

At 6:00 p.m., Mayor Earling announced that the City Council would meet in executive session to discuss real estate per RCW 42.30.110(1)(i) and potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately one hour and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Petso, Bloom, and Nelson. Others present were City Attorney Jeff Taraday, Parks & Recreation Director Carrie Hite, and City Clerk Scott Passey. At 7:01 p.m., Mayor Earling announced to the public present in Council Chambers that the executive session would be extended for 10 minutes. The executive session concluded at 7:10 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:11 p.m. and led the flag salute.

### **WORK MEETING**

#### **2. ROLL CALL**

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Councilmember Mesaros.

3. **APPROVAL OF AGENDA**

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

4. **APPROVAL OF CONSENT AGENDA ITEMS**

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. **APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF SEPTEMBER 15, 2015**
- B. **APPROVAL OF CLAIM CHECKS #216145 THROUGH #216278 DATED SEPTEMBER 17, 2015 FOR \$831,048.61. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #61788 THROUGH #61797 FOR \$468,607.19, BENEFIT CHECKS #61798 THROUGH #61802 AND WIRE PAYMENTS OF \$525,357.78 FOR THE PAY PERIOD SEPTEMBER 1, 2015 THROUGH SEPTEMBER 15, 2015**

5. **PRESENTATIONS/REPORTS**

A. **EDMONDS HISTORICAL MUSEUM PRESENTATION REGARDING EDMONDS SCARECROW FESTIVAL**

**Bill Nyberg, President, Edmonds Historical Museum,** commented the City celebrated its 125<sup>th</sup> anniversary this year; numerous community groups made that an exciting day and summer. The Historic Society created a new gathering place, the Museum Plaza, which was dedicated on the City's 125<sup>th</sup> anniversary. The plaza is not yet done, bricks and tiles are still being laid and historical plaques are being developed including one that will feature a walking tour/timeline of the City. A time capsule was placed and benches will be installed. Over 400 bricks have been purchased by citizens in the community and are still for sale. Bricks purchased to date will be installed in 2015, further purchases will be installed next year due to weather. Over 120 people attended the Museum sponsored Old Settlers Picnic in the Park. On October 26 the Cascade Symphony will honor the Museum with a special performance commemorating the 125<sup>th</sup> anniversary. On November 13, the Museum will hold its third annual Heritage Day fundraiser at Holy Rosary community center. This year they will recognize Floretum Garden Club, the Citizen of Year; Edmonds in Bloom which celebrates 20 years of service to the community; and SnoKing Chorale which celebrates 15 years and winners of the Scarecrow Contest will be announced. This year is the third annual Scarecrow Contest; there were 50 scarecrows the first year, 100 last year and the hope this year is 125.

Councilmember Petso entered No Noggin' Scarecrow into the contest. Damian announced the scarecrow's name is No Noggin'. Gus said they made a mistake last year; No Noggin actually gets his head after Halloween. Some scarecrows don't like birds but not always and No Noggin is the best, scariest scarecrow of all.

Mr. Nyberg expressed appreciated for the Council's support of the Museum

B. **PLANNING BOARD REPORT**

Planning Board Chair Neil Tibbott summarized the Planning Board activities, commenting much of what has been done since the Board's last report has been presented to the Council:

- Comprehensive Plan

- Extensive review of Transportation Element
- Reviewed seven other Elements and four other components
- Sent to City Council end of June and approved by City Council in July
- Planning Board retreat on June 25
  - Held on June 24 at the Swedish Hospital boardroom at the suggestion of Council President Fraley-Monillas
  - Carl Zapora described hospital activities how Verdant relates to the City
  - Reviewed the year's activities and how to better prepare for meetings
- Two new Planning Board Members: Matthew Chung and Nathan Monroe
  - Planning Board has diverse members with many unique talents who represent the City well and use their skills to bring quality recommendations to the City Council.
- Held six public hearings
  - Proposed Tree Code
  - Comprehensive Plan
  - Irreconcilable Applications code
  - Marina Beach Park Master Plan
  - Rezone of parcel at 220<sup>th</sup> & Hwy 99
  - Critical Area Ordinance

Chair Tibbott explained the Planning Board provided its recommendation to the Council on the Marina Beach Park Master Plan without quite enough time for the City Council to have the benefit of the written record. The Planning Board had a robust discussion and he recommended in the future hearings be scheduled to allow enough time between meetings to provide the Council the Planning Board's written record. He reported on current projects which include the code rewrite project and said the Planning Board will soon begin the Hwy 99 subarea planning process.

Councilmember Buckshnis thanked Chair Tibbott and other Planning Board Members for their good work. She acknowledged the Planning Board minutes are very detailed but she also enjoys watching the meeting video. Although the Council was not provided the Planning Board's minutes regarding the Marina Beach Park Master Plan, several Councilmembers watched the meeting.

Councilmember Nelson thanked the Planning Board for the work they do. He concurred with Chair Tibbott's recommendation to allow time between meetings to provide the Council the Planning Board's written record, noting it was helpful to read about items the Planning Board deliberated on.

## 6. AUDIENCE COMMENTS

**Tom Graff, Edmonds**, resident of Pt. Edwards, referred to the critical area regulations update, explaining he volunteers at the demonstration garden at the Hatchery and for the City of Seattle Parks Department, primarily removing invasive species. He pointed out the City's critical area regulations allow removal of invasive species (page 19) and list species that can be removed without a permit. He noted the list includes "Scott's broom" which is actually "Scotch broom." The list does not include alders, one of the most hated plants/trees in the region. He suggested alders of less than 4-inch caliber be allowed to be removed as they kill nearly everything in its way. If a native garden is desired, alder is not a tree to include. He acknowledged a larger tree required a different effort; the State allows removal of alder under 4-inch caliber.

**Fred Gouge, Edmonds**, Port of Edmonds Commissioner, reported on activities at the Port in the last three months:

- Jacobsen Marine has had a very big year
  - Generated business for the fuel dock

- Provide full service facilities for existing and new customers
- Customers frequent restaurants, Harbor Inn and local merchants
- Long term customer base followed them to Edmonds
- Since arriving in Edmonds, added two full-time employees, both Snohomish County residents
- Puget Sound Express, half-day whale watching trips to San Juan Islands
  - 155 trips and 4,500 passengers this summer
  - Tour companies bringing people to Edmonds who may not otherwise visit
  - Tours continue until mid-October and then cease until spring 2016
- Sea Jazz: Edmonds-Woodway High School students
  - 35 performances on Wednesdays and Sundays.
  - Anthony's and Arnie's provide food to performers
- Local Artists in Action
  - Port partnered with Edmonds Arts Festival on weekends
- Waterfront Festival sponsored by Rotary
  - 30,000 – 40,000 in attendance
- Coho Derby
  - 970 tickets sold (the most ever)
  - 287 fish weighed in
- Destination Port of Edmonds program partnering with merchants
- Daily Operations
  - Guest moorage up 31%
  - Boat launches up 16%
  - 100% full in dry stack and water moorage
  - Hired 9 seasonal employees

Council President Fraley-Monillas invited the Port to contact her to schedule a quarterly report.

**Laura Johnson, Edmonds**, observed the Meadowdale Playfields, Woodway Fields Phase 2 and 3 and Civic Field on are on the Capital Facilities Plan She explained over the past month many citizens have shared their extreme concern with crumb rubber athletic fields, bringing in experts and providing enough studies to seriously question their safety. She hoped since the Council now has this information prior to any decisions or partnerships, that they show extreme caution and put the health of children, citizens, and the environment first as well as the City's financial health and reputation. The State, the CPSC and many other groups are looking into the safety of crumb rubber infill and the synthetic carpet. Crumb rubber is full of toxins and carcinogens and has great potential for harm to humans and environment and there are alternatives. More research needs to be done with regard to synthetic turf; it appears it may contain phthalates which violate the new ruling from the CPSC as well as the Washington State's Children's Safe Products Act. She urged the Council to take this into consideration and decide what side of the issue they want to be on. She hoped the Council would choose the side of caution and put human and environmental health first.

## 7. **STUDY ITEMS**

### A. **POLICE DEPARTMENT SURPLUS PROPERTY**

Chief Compaan explained the Edmonds City Code requires Council authorization to sell or dispose of surplus property. He referred to an inventory sheet in the agenda memo, seeking authorization to send the surplus property items to auction or disposal.

Council President Fraley-Monillas observed there appeared to be a lot of electronics including a lot of cameras, most of which are recommended for destruction. Chief Compaan answered the small, pocket

sized digital cameras used in the field; when they stop working they are not repairable and not worth anything; therefore they are recommended for disposal.

It was the consensus of the Council to schedule this for approval on the next Consent Agenda.

**B. 2015 NONREPRESENTED COMPENSATION STUDY**

Human Resources Manager Mary Ann Hardie explained the packet contains three options for comparator cities:

1. Snohomish, Pierce and King county comparator cities
  - Staff's recommendation as the most relevant to the current market
2. Historic comparator cities plus policy comparator
3. Current policy comparator cities adopted in the Non-Represented Compensation Policy in 2012 including cities in King, Snohomish, Pierce, Thurston and Kitsap counties.

Ms. Hardie explained there are not huge and significant differences between the three groups in terms of salary ranges. However, should Council choose to adopt total cost of compensation ranges, some changes would be required. With regard to the comparator cities in Snohomish, King, and Pierce counties, Ms. Hardy explained the City loses and attracts employees primarily from those counties and the salary ranges closely match the current nonrepresented salary ranges.

She relayed recommendations for two positions that are significantly lower than the marketplace that staff recommends adjusting:

- Assistant Police Chief – based on external comparators, the position is about 2.5% below in deferred compensation for this position. She clarified that includes salary and other cash benefits as part of total compensation. It is common for the Assistant Chief and the Police Chief positions in other cities to receive additional pay such as incentive, longevity, etc. which provides an incentive for promotion opportunity when they leave a union position as well as avoids compression with commissioned positions.
- HR Assistant – position is approximately 4% lower than current median pay. There has been a slight adjustment in the marketplace since the part-time position was established three years ago.

She relayed a recommendation to adjust the minimum salary range, explaining the minimums and medians are about 4% below across the board with all comparator cities. From a recruitment perspective, although the Mayor has the option of starting a position at Step 2 or 3 as needed, it makes recruitment more difficult. This is especially important because the nonrepresented group is paraprofessional and some of the most educated in terms of tenure and experience. She requested Council input regarding the policy cities and the recommendation on the two other issues.

Councilmember Petso thanked Ms. Hardie for meeting with her this afternoon to address several questions. Between now and the next time the Council looks at this, she requested the recommendation for the HR Analyst position be reevaluated. She understood the recommendation for the Assistant Chief; while the salary was similar, there was a significant difference in total compensation due to extra benefits. However, the HR Analyst position does not illustrate the same significant difference to justify the recommendation.

Councilmember Petso clarified if the policy were changed to compare only to Snohomish, King and Pierce counties, Lacey and Bremerton would no longer be used as comparable. Ms. Hardie agreed. Councilmember Petso observed there is often not a comparable position in another city and asked if that would be even more difficult if Lacey and Bremerton were not included. Ms. Hardie answered there are other cities in Snohomish, King and Pierce counties that could be used as comparators that were not

included in the study. She clarified the recommendation for the salary adjustment was for the HR Assistant, not the Analyst. The HR Assistant is a part-time, hourly position that works 20 hours a week. When comparing to Admin Assistant type positions, it was very low, making it a fairness and equity issue. Councilmember Petso said she would reconsider her suggestion.

Councilmember Buckshnis recalled an extensive study was done three years ago and a great deal of time was spent in executive session. She observed the market had not changed that much since then, for example there has been a stagnant interest rate and cost of living has not increased much. With regard to the recommended position adjustments, she did not see much change for the HR Assistant and Assistant Police Chief. Ms. Hardie agreed looking at comparison of salary range across the board there were not significant differences. The averages Snohomish, King and Pierce County reflect 2-3% to the City's current positions.

Councilmember Buckshnis asked why Bremerton and Lacey were removed as comparator cities. Ms. Hardie said the Snohomish, King and Pierce County comparators do not include Kitsap County (Bremerton) or Thurston County (Lacey). The City's current policy includes Snohomish, King, Pierce, Kitsap and Thurston counties. She recalled staff pointed out at a previous meeting the City's labor market is where employees are lost to and attracted from. In response to a question by Councilmember Johnson at a previous meeting regarding specific employees that have left Edmonds, her research found 5-6 individuals that were lost to Snohomish, King and Pierce counties. Aside from one employee the City attracted from Bremerton, Phil Williams, the City had not hired anyone else from Bremerton in the last 10 years. In leveling the labor market, geographical cost of living differentials are very complicated.

Councilmember Buckshnis recalled the consultant included Kitsap and Thurston counties due to interest in their population, not the county. Human Resources Reporting Director Carrie Hite explained the consultant, Matt Weatherly, recommended using King, Snohomish County and Pierce counties. The Council had a lengthy discussion with the consultant and discussion at least four Council meetings to define the parameter cities and ended up defining it as the greater Puget Sound region; Kitsap and Thurston counties were added at the Council's request. Councilmember Buckshnis suggested staff provide the Council the minutes of those discussions. She expressed concern with paying a consultant for that information and suddenly changing it three years later.

For Council President Fraley-Monillas, Ms. Hardie said the population of Bremerton is 38,000-39,000 and Lacey is approximately 46,000. Council President Fraley-Monillas commented Lacey is full of State employees so that is where their salaries come from.

Councilmember Johnson expressed concern with changing the number of steps because when the Council reviewed this three years ago, a specific effort was made to put all employees on a seven-step schedule. Reducing the steps to six eroded that previous work. She suggested another approach to address that problem.

Councilmember Petso commented the problem is not as large as it appears; staff has the ability to hire employees above the first step. For example, if the first step is not competitive, staff can hire someone at step two without Council making any changes to the steps. It was her understanding staff could also hire someone at step three or above with approval of Mayor. Ms. Hardie agreed. Councilmember Petso concluded if the salary ranges were not changed, staff could vary the step someone was hired on if a particularly applicant/circumstances warrants. Ms. Hardie answered yes, if Mayor agrees.

Mayor Earling commented the City currently has 44 nonrepresented employees; about half are supervisors, managers or directors. He was hopeful the Council would consider the total cost of compensation, observing the Council appeared to be favorable to doing that for the Assistant Police Chief

position. There are others positions in the management group that need a similar adjustment. With regard to hiring employees above first step, he recalled in at least two cases the top candidate was ready to accept a position but hiring them requiring doing so above the first step in order to be competitive, illustrating there is not always consistency in the transferability of higher positions. He also urged the Council to consider using King, Snohomish, and Pierce County as comparators because they provide better comparatives. For example, although Bremerton has a similar population, the cost of living is lower.

#### Comparator Cities

Councilmember Petso recommended leaving the comparator cities as it was in the existing policy with five cities. She acknowledged it was possible Bremerton and Lacey do not accurately reflect the cost of living difference but they may make it up in the ability of the cities to pay which is also a factor for her. She found it valuable to have more cities with relevant data.

Council President Fraley-Monillas said the cost of living is actually higher in Seattle and Pierce County than in Snohomish County. If cost of living is compared in individual areas, comparators in King and Pierce that were higher than Snohomish County would give a false reading. She was supportive of not including Kitsap County but felt Thurston County was a very thriving county in same corridor and its cost of living was more similar to Snohomish County, maybe not to Edmonds, than Seattle or Pierce County. She considered the cities more than the counties.

Councilmember Buckshnis agreed with including Thurston County. Her review of the data found Lacey lines up with a lot of Edmonds's minimum, maximum and mid-point. She agreed there were a lot of State employees in Lacey and it was a "treasure-trove" of good information.

Mayor Earling commented while Snohomish County may be lower overall, he encouraged the Council to think of Edmonds in competition with south Snohomish County which includes Shoreline and Seattle.

Ms. Hardie clarified cities in King, Snohomish and Pierce counties that would be used are Burien, Sammamish and Issaquah; Burier and Issaquah are already comparator cities. Further, the survey does not use the State as a comparator; the State has a different compensation system based on points. She noted the City of Seattle uses Edmonds as one of its comps.

Councilmember Nelson found eliminating Kitsap County acceptable.

Councilmember Bloom asked what cities in Kitsap County were used as comparators. Ms. Hardie answered Bremerton whose population is 38,000-39,000. Councilmember Bloom preferred to retain an additional city in the pool for better averaging.

Councilmember Johnson said her concern with the three options was in Option 1, staff's recommendation to include Snohomish, King and Pierce counties, Lynnwood is only other city in Snohomish County. In Option 2 there is Lynnwood, Marysville and Shoreline and Kirkland. She asked why staff recommended abandoning the current policy compactor cities for a smaller group of cities. Ms. Hardie answered Option 2 includes current policy comparator cities and historic city comparators. Option 1, comparator cities in Snohomish County, King and Pierce counties includes Lynnwood; Marysville is no longer comparable as its population is 63,000. She summarized adopting a three county policy would still include Lynnwood.

Councilmember Buckshnis asked why Lakewood was no longer included, recalling it tracked well with Edmonds. Ms. Hardie said Lakewood's population estimate is 58,000. She noted there may be other factors the Council may want to consider in the future such as assessed valuation, etc.

Ms. Hardie summarized Council direction: current policy compactors and removing Kitsap. Council agreed.

Adjustment to Minimum Salary Ranges

Councilmember Petso expressed support for both recommendations.

Mayor Earling summarized as there was no further Council comment, he assumed other Councilmembers were in agreement.

**C. ESCO IV FUNDING USE**

Public Works Director Phil Williams explained this is the fourth Energy Services Company (ESCO) that the City has engaged in. The Council originally approved a small contract between Edmonds and Ameresco to develop this ESCO IV project. There was an assumption that the City would qualify for a Department of Commerce grant as has occurred in the past; two-thirds of the applications submitted during the application period were not funded including Edmonds'. The budget included \$210,000 in local funds, anticipating \$65,000 in grant funds. The bulk of the scope of work was replacing the HVAC units on top of the Library Plaza Room, an energy savings project but they are worn out and need to be replaced. The scope also included monitoring and designing improvements to the steam trap in the Frances Anderson Center boiler system and upgrading to LED six decorative Sternberg lights in the waterfront area, lighting on the Fishing Pier and streetlights the City owns.

Mr. Williams explained all three projects could have been funded with \$275,000; without the grant, he requested authorization to proceed with the funds budgeted and reduce the scope by removing the Fishing Pier lights which will be part of the Fishing Pier rehab and the streetlights which staff will determine a method of replacing in the future and upgrade the six Sternberg lights as they fail. He noted the energy savings from lighting upgrades versus the capital cost of the LED lights are not sufficient unless there are grant funds to offset the cost. Replacing the six Sternberg lights as they fail will reduce the cost by \$12,400.

Councilmember Petso inquired about the funding source for the match. Mr. Williams answered it was the General Fund. He pointed out the energy savings of upgrading lighting is the Department of Commerce's only consideration when granting funds. From the City's perspective, the savings would be larger because over a 15-year period, high pressure sodium bulbs would need to be replaced 6-7 times which requires a truck, bulbs and employees, versus LED bulbs which would only need to be replaced once in a 15 year period. He summarized the savings of lighting upgrades are much greater as they relate to maintenance than in energy usage.

It was the consensus of the Council to schedule approval on a future Consent Agenda.

**D. PRESENTATION OF THE PROPOSED 2016-2021 CAPITAL FACILITIES PLAN (CFP)/CAPITAL IMPROVEMENT PROGRAM (CIP)**

Mr. English provided a diagram showing components found only in the CIP and only in the CFP and components found in both the CIP and CFP. The CIP contains 6-year maintenance projects with funding sources, the CFP contains long range (20-year) capital project needs, and both contain 6-year capital projects with funding sources. The 2016-2021 CFP contains three project sections:

- General
  - Parks, buildings and regional projects
- Transportation
  - Safety/capacity and pedestrian/bicycle
- Stormwater



Mr. English provided a summary of CIP fund numbers and the department managing each fund:

<b>Fund</b>	<b>Description</b>	<b>Department</b>
112	Transportation	Public Works
113	Multimodal Transportation	Community Services
116	Buildings Maintenance	Public Works
125	Capital Projects Fund	Parks & Recreation/Public Works
126	Special Capital/Parks Acquisition	Parks & Recreation/Public Works
129	Special Projects	Parks & Recreation
132	Parks- Construction (Grant Funding)	Parks & Recreation
421	Water Projects	Public Works
422	Storm Projects	Public Works
423	Sewer Projects	Public Works
423	Wastewater Treatment Plant	Public Works

He displayed a photograph of the 228<sup>th</sup> corridor project that will connect Highway 99 and 76<sup>th</sup> and install signals at Highway 99 & 228<sup>th</sup> as well as 76<sup>th</sup> & 228<sup>th</sup>. Grinding and paving will be done in October; project will continue into 2016. He displayed a photograph of the stormwater detention vault for the 228<sup>th</sup> project, a vault that will collect and detain stormwater which helps minimize peak discharge, especially important in the Lake Ballinger Watershed.

Mr. English displayed a photograph of a pavement grinder on 220<sup>th</sup>, grinding pavement in advance of paving that will follow later this week assuming good weather. He highlighted projects in the 112 Street Fund:

- Pavement Preservation Program
  - 9.6 Paved Lane Miles (Construction)
  - \$1.03M Proposed Budget for 2016
- 228th Corridor Improvements (Construction)
- SR99 Lighting Phase 3 (Construction)
- 238th St. Walkway (Construction)
- 2015 Transportation Comp Plan (Completed)
- SR104 Corridor Study (Final Draft)

He highlighted 2016 projects in the 112 Street Fund:

- 76th/212th Intersection Improvements (2016)
- Citywide Bicycle Improvements (2016)
- 236th St. Walkway (2016)

Transportation projects funded with 126/125 REET funds include:

- 2016 Pavement Preservation Program (126/125)
- Trackside Warning System Main/Dayton (126)
- Signal Cabinet Upgrades (126)
- Curb Ramp Upgrades Program (126)
- ADA Transition Plan Update(126)
- 2016 Traffic Calming Program (126)
- SR99 Access Management Study (126)
- Minor Sidewalk Program (126)

He displayed a photograph of components of a watermain replacement and identified other projects funded by the Water Utility Fund (421):

- 8,200 ft Watermain Replacement (Construction)
- Replacement of 2 PRV's (Construction)
- Overlay 1,700 feet of street affected by waterline replacements (Construction)
- 8,000 ft of Watermain Replacement (2016)
- Replacement of 1 PRV's (2016)

Mr. English displayed a photograph of a stormwater project and identified other projects funded by the Stormwater Utility Fund (422):

- 238th St. Drainage Improvements(Construction)
- Willow Creek Daylight Feasibility Study (2015)
- SW Edmonds 105th/106th Improvements (2016)
- Dayton St Pump Station; Design(2016)
- Seaview Infiltration Project; Design (2016)
- Willow Cr/Edmonds Marsh; Design (2016)
- Stormwater Comprehensive Plan Update (2016-17)

Mr. English displayed a photograph of a sewer main replacement project and identified other projects funded by the Sewer Utility Fund (423):

- 2,700 ft sewermain replacement (Construction)
- Pavement overlay on 500 ft of street affected by sewermain replacements (Construction)
- 3,000 ft sewermain replacement (2016)
- 5,800 ft CIPP sewermain rehabilitation (2016)
- WWTP Improvements

Parks & Recreation Director Carrie Hite displayed photographs and described highlights of the Park CIP 2015:

- City Park spray area
- Dayton Street Plaza
- 4<sup>th</sup> Avenue Cultural Corridor
- Historical plaques and lighting project
- Marina Beach Master Plan
- Repairs needed at Yost: \$120,000 for spa rebuild (REET 125)
- Anderson Center stage replacement (REET 125)
- Veteran's Plaza (REET 125)
- Fishing Pier Rehab (Fund 132)
  - \$1.3 million grants for a \$1.5 million project
  - Planning Board Member Val Stewart is coordinating work with students
  - Council President Fraley-Monillas connected staff with fishermen/women to do upgrades to amenities
  - Construction March/April
- Edmonds Marsh, daylighting of Willow Creek (125/132)

She highlighted Parks CFP 2015 projects:

- Civic Center acquisition
- Woodway HS Athletic Complex
  - 655,000 set aside
  - \$2.5 million Verdant
  - \$500,000 Edmonds School District

- \$750,000 State appropriation

Ms. Hite was hopeful there could be a ribbon cutting of the Spray Park in late September but it may be completed and then winterized and a ribbon cutting held in May. With regard to the Woodway HS Athletic Complex, she recalled the Council gave the City Attorney direction to work with Edmonds School District (ESD) on an ILA; staff has not yet heard from the District. She advised the fields are nearly completed and will be open for school use next Monday and open for community use in two weeks. She identified projects in the Parks CIP 2016:

- Parklet development
- Outdoor Fitness Zones
- City Gateway Replacement

Projects in the Parks CFP 2016 include:

- Meadowdale Playfields
  - Partnership between Edmonds, ESD, Lynnwood and Snohomish County
    - Interlocal Agreement effective until 2025.
    - Interlocal Agreement gives each party a role in decision-making
    - Lynnwood taking lead with regarding to financing which includes a financial contribution from Edmonds
- Locate, construct and maintain a downtown restroom
- Senior/Community Center Walkway Design
- Civic Center Master Plan

She recommended consideration of the following changes to the Park CFP 2016:

- Delete Edmonds SnoIsle Library
- Delete Boys and Girls Club Building
- Change Arts Center/Art Museum to Cultural Arts Facility Needs Study

Mr. English reviewed the CFP/CIP schedule:

- July
  - City Staff begins development of capital budgets
- August/September
  - Submit proposed capital budget to Finance
  - Prepare Draft CFP and CIP
  - City Council presentation
- October
  - Planning Board public hearing (October 16th)
  - City Council public hearing (October 20th)
- November/December
  - City Council approval
  - Adopt CFP w/ budget into the Comprehensive Plan
  - Exhibit C comparison matrix that shows changes.

Councilmember Buckshnis recalled discussion about existing venues during the Council's consideration of the Edmonds Conference Center acquisition and the Community Cultural Plan. She preferred not to include either an Arts Center/Art Museum or a Cultural Arts Facility Needs Study in the CFP. Ms. Hite explained the recommendation was to change Arts Center/Art Museum to Cultural Arts Facility Needs Study to determine if private and/or non-profit partners are meeting the need in the community and if not, to reconsider an Arts Center/Art Museum and if so, possibly partnering/collaborating, not necessarily creating another facility. The Community Cultural Plan did not include a needs study; the community was

very interested in determining whether a new museum was needed. Ms. Hite estimated the cost of a study to be \$50,000.

With regard to citywide signage, Councilmember Buckshnis recalled discussion a few years ago about modernizing the logo, etc. She recognized such an effort would be extremely expensive. She asked whether the plan was to continue using the same wooden structures and Welcome to Edmonds. Ms. Hite responded that is the plan; she was open to Council discussion such as spending a year planning, considering the logo, branding, etc. although that would cost money and time. Staff could consider different sign designs using the same logo which would not cost as much or take as long. Councilmember Buckshnis understood the old signs because Edmonds was formerly a mill town but many may not identify with that anymore. Ms. Hite explained a master sign plan was adopted; as park signs are replaced, the new font, color, design and look are used. That plan did not identify the large gateway signs but that plan can be used to guide in the replacement of the gateway signs. Councilmember Buckshnis agreed consistent signage will be importance, particularly when the Westgate gateway is designed.

Councilmember Johnson questioned whether the October 16 Planning Board public hearing and the October 20 City Council public hearing provided enough time for the Council to review the results of the Planning Board public hearing before making a decision. Mr. English recalled the Council typically holds a public hearing on both documents and then deliberates and makes a decision at a later meeting. Effort will be made to include the October 16 Planning Board minutes in the Council packet.

Council President Fraley-Monillas suggested moving the Council public hearing to October 27. Mr. English said October 27 is a study session and typically public hearings are held at a business meeting. Council President Fraley-Monillas said a public hearing could be held at a study session. Mr. English agreed.

Council President Fraley-Monillas asked whether the Council had given final design approval for the Veteran's Plaza. Ms. Hite responded Council approved a concept from Site Workshop with walls, service emblems and a meditative garden area. A few changes have been made as a result of concern in the community with the significant size of the walls and having each service branded on the walls. The new design sites all the branches on one wall, bringing honor to anyone who served in any capacity, not honoring just the branches. The concept is very similar. She offered to invite the community group to present the slightly revised concept to the Council.

Council President Fraley-Monillas said she has been contacted by two individuals who, observing this is a community space in perpetuity, felt there had not been enough public input from members of the community who were not in the military. She suggested creating an opportunity for more public input into the project prior to completing the design. Ms. Hite reminded the Council that the community group charged with creating a Veteran's Plaza had been at Council a few times, a public hearing was held and Council officially gave them the go-ahead. The community group has been fundraising this plan (\$475,000) and the design is almost at 60% design and out for survey. The project is quite far down road to introduce more public input for changes. The changes are in the design concept now and it would be an appropriate time for the community group to present them to Council.

Council President Fraley-Monillas said at least a couple citizens would like to provide input to the Council. Ms. Hite said two citizens provided input to the community group which resulted in some of the proposed changes. She suggested Council President Fraley-Monillas refer those two individuals to the committee or that they provide comment to Council. She did not support another public hearing on the concept the Council has already approved because the community group is diligently raising funds for that concept. Council President Fraley-Monillas said the two individuals met with community group and

did not feel their voices were heard. She will speak to the two individuals and suggest they provide comment to Council.

Councilmember Buckshnis cited one change; the Off Leash Area Edmonds (OLAE) is raising funds to include a K-9 veteran in the plaza. She felt the concept looked great. Ms. Hite said the community group is very open to suggestions and are working with the landscape architect to finalize the design development. At least one individual provided input recently and changes were made based on that input. Council President Fraley-Monillas said he contacted her after his meeting with the community group and felt he was not being heard.

It was the consensus of the City Council for Ms. Hite to ask the community group make a presentation to the Council. Council President Fraley-Monillas said she would invite the citizens to make comment.

Councilmember Petso referred to audience comment tonight regarding the Meadowdale Fields project and asked if now was the time to be more specific with regard to the designation in the Comprehensive Plan if a majority of Council was interested in doing that. Ms. Hite answered it could be done now; that project has three other partners so it is not just the City's decision. Councilmember Petso asked whether it would be preferable to remove that project from the plan to see what the legislature or Attorney General's office does with issues that have been presented to the State. Ms. Hite responded taking it out of the plan would mean the City would not go as a forward a partner. Edmonds needs to include funds in the plan and have a vested interest in order to continue utilizing the fields. The existing ILA includes termination clauses and ESD could terminate the ILA if Edmonds shows it does not want to be a partner and will not be at the table to discuss the plan. Removing the project from the CFP could jeopardize the partnership.

Councilmember Petso asked what happened if the Attorney General rules it is against the Children's Safe Products Act. Ms. Hite responded if the Attorney General made a statewide ruling, ESD, City of Lynnwood, Snohomish County as well as Edmonds would be impacted. There are four partners on the project; Edmonds either needs to be in and be part of the process and decision-making or completely out and not even be at the table.

Councilmember Petso asked the same question with regard to subsequent phases of Woodway Fields. For example how to address the CFP saying there will be lights, but the Hearing Examiner says there will not be. Ms. Hite said the description reflects what the plan has been all along. The plan has been to have lights at the fields. The Hearing Examiner ruled on the variance with regard to permits for lights; ESD is still interested in having lights and will have to go through the permit process to do that. An ILA with ESD is currently being negotiated to provide the City more decision-making in the partnership; to the extent that occurs, the remaining phases would occur in partnership with ESD.

Councilmember Petso asked about the field surface on subsequent phases. Ms. Hite clarified the project is currently in the CFP; if the City decides not to sign the ILA, the City is no longer a partner and not contributing to the project, scheduling or maintaining. If language can be negotiated in the ILA that is amenable to Council and the Council signs the ILA, it makes sense to keep Phases 2 and 3 in the CFP with that same language for future development. Councilmember Petso asked if Ms. Hite was suggesting the Council not take final action on the CFP until the ILA is resolved. Ms. Hite recommended keeping the project in the CFP to preserve options and allow Council discussion and decisions. If Council at some point decides they do not want to be a partner and not contribute funds, it can be removed from the CFP. She preferred to keep it in the CFP to retain options.

Councilmember Petso recalled the Council approved the TIP three weeks ago. Since that time a number of projects identified in the TIP as funded from the General Fund are now identified as funded from the 126 Fund. She asked why that change was made. Mr. English responded the largest reason for changes

was the budget process; the TIP was developed in June. Councilmember Petso observed an additional \$2 million is now being spent from the 126 Fund which is the only capital fund that can be used for property acquisition. If \$2 million in expenditures is transferred into the 125 Fund, those funds cannot be used for property acquisition. Mr. English agreed, pointing out funds were not being spent from the 126 Fund, they are being transferred to different funds for projects.

Councilmember Petso said sometimes the CIP is not consistent with the TIP and that is attributed to differences in timing. This year the Council approved the TIP three weeks ago; she asked whether they should be consistent under those circumstances. Mr. English answered staff tries to make them consistent but project expenses are typically good for that date and there has been a lot of back and forth on the budget in recent weeks and numbers change. As an example, Councilmember Petso asked whether the Council should amend the TIP if the Council chose to pay for the trackside warning system from the General Fund as it states in the TIP versus from the 126 Fund. Mr. English answered the TIP could be amended but it could also be corrected next year.

With regard to the Meadowdale Fields, Councilmember Nelson observed the existing ILA language includes allows negotiation of changes in the infill when it expires or needs to be replaced. Ms. Hite agreed. Councilmember Nelson noted that language does not currently exist for the Woodway HS Fields. Ms. Hite agreed, noting the language in the Meadowdale Playfield ILA allows Council to make decisions at the design and design development level. She was also at table in that process and Edmonds' feelings about crumb rubber would not be a surprise to Lynnwood or ESD.

Councilmember Nelson asked where parklets and fitness zones would be located. Ms. Hite answered there is a parklet location selected on the 4<sup>th</sup> Avenue Cultural Corridor in the triangle area near Edmonds Center for the Arts. There is also a business downtown that is interested in developing parklet outside their business. That prompted the development of a policy to ensure a fair/equitable process for developing a parklet in a parking space outside a business. Usually parklets are temporary and do not have a high cost but add flavor and culture to the City. Mathay Ballinger is being considered for a fitness zone as it is in a higher use area and public health statistic indicate the demographics do not have access to fitness. Another potential location for a fitness zone is City Park to allow adults to work out while children play in the spray pad and play area

Councilmember Nelson said he looked forward to being at the spray park ribbon cutting rain or shine.

Councilmember Bloom expressed appreciation for Councilmembers Petso and Nelson's questions about the Meadowdale Field and appreciated that the City of Edmonds would be at the table. She asked who at Snohomish County would be a partner. Ms. Hite answered Snohomish County Parks and the County Council adopted the ILA between Edmonds, Lynnwood, ESD and Snohomish County. The City of Lynnwood has since renegotiated an ILA looking at exclusive use of Meadowdale Playfields if Edmonds were ever to terminate its interest. She has represented that Edmonds is not planning to terminate its interest; there are no other full size fields in the City's park system, therefore the Meadowdale Playfields are utilized quite significantly.

Councilmember Bloom asked when the ILA regarding the Woodway Fields would be presented to the Council. City Attorney Jeff Taraday answered it has been in ESD's court quite a while; the City could hear back from ESD any day.

Councilmember Bloom observed the funding estimate and timeframe for the year-round market had been eliminated; she recalled the previous funding estimate was \$5 million. Ms. Hite said a lot of projects are unfunded and unplanned due to other priorities or not enough money to fund it. There is currently no

funding source for that project. If Council is interested in moving that project forward, a funding source could be identified.

Councilmember Bloom observed outdoor fitness zone was scheduled in 2017 and \$50,000 is allocated. Ms. Hite said the timeframe is 2016. The intent is \$50,000 from REET and to apply for \$75,000 in grant funding.

Councilmember Bloom observed the costs for the alternatives study extend from 2016 into 2017. If the study is prioritizing near term solutions for emergency access; she asked whether the analysis should be completed before 2017. Mr. English answered the alternatives analysis study has not started yet. A task force has been formed, an RFQ process completed and two consultants will be interviewed tomorrow. The projected timeline is 14-18 months due to the scope/magnitude of the project which takes it into early 2017.

Councilmember Bloom recalled the Sunset Avenue Walkway was discussed as part of the Comprehensive Plan discussion and recalled a Councilmember made a motion to eliminate the multi-use aspect [motion was not approved]. She also recalled Councilmember Petso referenced data that 8 feet was not sufficient for a multi-use path. Mr. Williams answered staff is still researching the standards/guidelines that Councilmember Petso cited. He explained the initial preference was a 10-foot path with a 2-foot shy zone but there is simply not enough space for that. Therefore an 8-foot path was used in the pilot project. The question becomes whether that is too narrow for bicycles, pedestrians and other non-motorized traffic to coexist comfortably and safely which was one of the reasons for the pilot project. The pilot project has reached the end of a year and two reports have been made to the Council about what has been learned and the data collected. That effort has not been completed; an online survey will be available shortly. When all the information is gathered, another report will be made to the Council.

Mr. Williams explained the type of traffic to include on the walkway will be one of the considerations of a permanent project, whether to include bicycles, whether the width is sufficient to accommodate bicycle traffic that has been observed. Bicycle traffic has been fairly low volume and low speed. Efforts were made to address bicycle traffic via signs for a 10 speed limit and for the most part cyclists have complied. There have not been any accidents between bicycles and pedestrians in the past year and it is not felt to be a significant hazard at this point. NACTO recommends a 10-foot minimum width for a path with all types of traffic; the path can be narrower in a location where the use is limited. He did not find that to be the situation on Sunset Avenue; it is very well used. He summarized width will be an issue when and if a project is designed.

Councilmember Bloom asked when the design will come back to the Council and when will the public have an opportunity to be actively involved; people have been asking for a Town Hall meeting or other opportunity to ask questions and provide input. Her understanding was the test period concluded in August. Mr. Williams said the end of the yearlong pilot project was September 14, 2015. Once the survey results are available, all the information will be present to Council and a public meeting can be scheduled, whether it is a Town Hall, public hearing before the Council, public meeting, etc. He agreed some type of public meeting would be a useful part of the process.

Councilmember Bloom asked what information will be evaluated. Mr. Williams advised data collection has included observation, monitoring, accident and speed data, past survey data as well as an online survey at the end of the yearlong pilot project. Councilmember Bloom asked if the Council would have an opportunity to review the survey questions. Mr. Williams offered to send her the questions, noting staff is still working on the questions.

Councilmember Bloom observed the cost of the Sunset Avenue Walkway had increased from \$1.9 million to \$2.35. Mr. Williams answered until the scope of the project is known, the cost is unknown. A number was developed quite a long time ago associated with a full size Sunset Avenue Walkway that included a raised, decorative pathway all along the west side of the street. The project will likely look different than original scope, be less expensive and robust with fewer improvements and concentrated on the two ends. He did not see the cost estimate being particularly relevant but it could be reduced if the Council wished. Councilmember Bloom asked if the goal was to have that decision made before the Council votes on the CIP/CFP. Mr. Williams answered the cost estimate would not be changed unless the Council requested. The exact scope of the project will not be completed by the time the CIP/CFP is adopted.

Mayor Earling declared a brief recess.

#### **E. CONTINUED REVIEW OF CRITICAL AREA REGULATIONS UPDATE**

Senior Planner Kernen Lien explained this is the second in-depth review with the Council of the Critical Area Ordinance (CAO) update. As he did not receive any questions from Councilmembers as a result of the first review, he will highlight a few items in the update. He described critical area restoration projects:

- New Section ECDC 23.40.215
- Provide relief from standard critical area buffer for restoration projects that is not required as mitigation for a development proposal
- Restoration Project involves:
  - The day-lighting of a stream, or
  - Creation or expansion of a wetland that would cause a landward expansion of the wetland and/or wetland buffer

In response to a Council comment at the previous meeting, whether the restoration provisions were tight enough and whether a 1-inch expansion of a wetland would allow a substantially reduced buffer, the restoration project relief was amended slightly:

- Expanded buffer: that portion of the stream or wetland buffer that extended landward as a result of the restoration project (not associated with a development proposal)
- May apply a buffer that is not less than 75% of the expanded buffer
- Request a buffer between 50% and 75% of expanded buffer if:
  - 75% buffer would significantly limit use of the property
  - Minimum necessary to achieve restoration project
  - There will be a net environmental benefit
  - Granting relief is consistent with the purposes of the critical area regulations

Mr. Lien provided a drawing of an example of an existing wetland with a 50 buffer, expanded buffer and a 75% relief buffer. He reviewed changes made in response to a comment at the September 8 presentation that the estuarine wetland buffer was missing from the wetland buffer categories:

- Added Category I – Estuarine Wetland Buffers to ECDC 23.50.040.F
- Modified Category III wetland buffers to be consistent with the Guidance for Small Jurisdictions

He reviewed changes made in response to a comment at the September 8 presentation regarding Bald Eagle habitat:

- Existing provisions under Endangered, Threatened, and Sensitive Species
  - References WAC 232-12-292
  - Only applies when threatened or endangered in Washington State
- Added new section ECDC 23.90.040.E referencing Federal Bald and Golden Eagle Protection Act



Mr. Lien highlighted changes related to critical area report and determinations:

- Critical area reports and determinations valid for 5 years
- Critical area determination after 5-years
  - New determination, or
  - New assessment verifying previous determination
- Critical area report after 5-years
  - Determine if revision or additional assessment necessary

He highlighted changes to allowed activities and exemptions:

- ECDC 23.40.220.C.7 – Select Vegetation Removal
- ECDC 23.40.230.C.2 – Operation and Maintenance includes normal maintenance of vegetation performed in accordance with best management practices
  - Would allow removal of alder seedlings
- “Normal maintenance of vegetation” means removal of shrubs/non-woody vegetation and trees (less than 3-inch diameter at breast height) that occurs at least every other year. Maintenance also may include tree topping that has been previously approved by the City in the past 5 years.

He highlighted new provisions related to penalties for critical area violations – ECDC 23.40.240.E:

- Currently references tree cutting penalties in ECDC 18.45
- Maintain reference to tree cutting penalties, and
- \$3 per square foot penalty of impacted critical area and critical area buffer

He reviewed next steps:

- Comments from state and tribal agencies (Commerce, Ecology, WDFW)
- October 6: City Council Public Hearing
- Consideration for Adoption

Councilmember Petso asked if the City has to follow Best Available Science (BAS) in developing the CAO or does BAS only have to have been considered. Mr. Lien answered generally BAS has to be followed; jurisdictions can deviate from BAS if there is a documented reason to do so. For example, the City deviated with regard to the restoration project, allowing a buffer reduction to 50%; that is not really supported by BAS but it provides a net benefit to critical areas. Other things that may be a slight deviation from BAS include physically separated and functionally isolated; that has not been studied and there is no peer review report but because Edmonds was developed prior to adoption of critical area and environmental regulations, the intent is to provide a net benefit to critical areas. Mr. Taraday said in looking at this in the context of the Shoreline Management Act (SMA) and Shoreline Management Program (SMP), BAS is a factor but not the only factor jurisdictions are allowed to consider. He offered to provide a more detailed explanation in the future.

Councilmember Petso referred to development within the previously developed footprint, noting that also may not be entirely consistent with BAS. She suggested gravel be deleted from the definition of previously developed footprint. She questioned why gravel and a structure would be treated the same; she acknowledged a 5-story structure represented previously developed but gravel will revegetate. Mr. Lien answered the interim ordinance regarding previously developed footprint defined developed footprint as all impervious surface areas which included gravel. He displayed an aerial of stream between two house and photograph of the stream adjacent to a gravel parking area. By the definition, that is a previously developed area. If a garage was added to that area, it would not be adding new impervious surface and by allowing some development in exchange of the buffer achieves a net benefit to critical areas instead of no change to the buffer if no development is allowed. Gravel is listed because it is an impervious area and the addition of a building would not increase the impervious surface area.

Councilmember Petso commented she has never had impervious gravel; the gravel she has experienced is pervious to water, vegetation, etc. Mr. Lien said gravel is defined as an impervious surface in the State stormwater regulations. Councilmember Petso asked whether the Council could change the definition of previously developed area to be only structures. Mr. Lien answered the definition of previously developed area could be changed; the existing definition includes gravel, blacktop, structures, and several other things.

Councilmember Petso recalled discussion at the September 8<sup>th</sup> meeting about buffer reduction and buffer averaging; it was her understanding averaging was a better way to protect critical area buffers. Mr. Lien responded both buffer averaging and buffer reduction are allowed but buffer averaging is preferred. A change was made in the draft code related to the amount of buffer averaging and buffer reduction that could occur. In the existing code the buffer can be reduced or averaged up to 50% and a buffer width reduction and buffer averaging could be combined on the same project. The draft code does not allow the buffer to be reduced or averaged not more than 75% and averaging and reduction cannot be combined. Councilmember Petso agreed that was a change for better but asked why buffer reduction would be allowed at all when buffer averaging was a better tool. Mr. Lien responded it is another tool in the toolbox. **Jim Keeney, ESA**, explained depending on land used on adjacent properties, buffer averaging may not be an option; therefore, a secondary choice would be buffer reduction. Buffer reduction provides some flexibility without overly restricting potential land uses on a property being redeveloped.

Councilmember Bloom commented the imperviousness of gravel depends on how deep it is. She agreed with Councilmember Petso's suggestion to eliminate gravel as an impervious surface. She commented the stormwater regulations may consider a different depth. Mr. Lien provided the definition of footprint of development, the area of a site that contains legally established buildings, concrete, asphalt, or gravel paved roads, parking lots, storage areas or other paved areas, driveways, walkways, outdoor swimming pools and patios. He offered to confer with Stormwater Engineer Jerry Shuster to determine how that definition could be tweaked. He pointed out a gravel paved road as well as a graveled parking area that was driven on a great deal and was packed down were impervious. A walkway with two inches of pea gravel may not be impervious.

Councilmember Bloom referred to the reasonable use definition that states "while also allowing for reasonable use of private property." She asked whether that meant private property and did not include public property such as the Port, Woodway Fields, School District, City owned property, etc. Mr. Lien provided the definition of reasonable economic uses, "the minimum use to which a property owner is entitled under applicable state and federal constitutional provisions in order to avoid taking and/or violations of substantive due process." The definition was amended a few years ago to omit reference to a single family residence. Mr. Taraday said that raises the question whether a governmental entity could sue the City for a taking. He suspected governments that hold property in a propriety capacity likely have property rights and if violated could lead to a constitutional violation. For example if General Motors is a person for constitutional purposes, a municipal corporation could also be a person and therefore entitled to constitutional rights. If that was an important issue to the Council, further research could be done. Mr. Lien referenced the critical area section, advising A.1 addresses critical area variances for public agencies and A.2 addresses variances for private properties.

Councilmember Bloom reiterated the definition refers to private property. Mr. Lien again referenced the definition of reasonable economic use on page 32 of definitions. Councilmember Bloom said she read a statement somewhere, possibly in the introductory statement that included "while also allowing for reasonable use of private property." Mr. Taraday said in the vast majority of instances the City would be dealing with private property.

Council President Fraley-Monillas referred to the proposed \$3 per square foot penalty for activities like filling a wetland. She asked if there was also a requirement to rehab what was done. Mr. Lien answered the violation would have to be rectified in addition to paying a penalty. Council President Fraley-Monillas calculated filling a 2,000 square foot wetland would only result in a \$6,000 penalty. Mr. Lien said fill was used as an example but mowing down vegetation in a wetland would be another example. Council President Fraley-Monillas asked how \$3/foot was determined. Mr. Lien said that is the cost of a simple planting plan for wetland mitigation. Council President Fraley-Monillas did not view that as enough for destroying a critical area. Mr. Lien said he compared it to the current tree cutting violation where a violator can be fined up to \$9,000 for removing one tree in a critical area. Council President Fraley-Monillas asked if anyone had been ever been fined \$9,000 for the removal of one tree. Mr. Lien answered yes, the last tree cutting violation was appealed to the Hearing Examiner and the \$23,000 fine was upheld. Another appeal of a \$45,000 fine for the removal of multiple trees is coming up. He explained he was comparing the fine to the current tree cutting violations since that was what this section referenced. There could be a critical area violation without removal of a tree but since the section refers to the tree cutting fines, this fine would be comparable. Council President Fraley-Monillas suggested separating a tree cutting fine from a wetland violation.

Councilmember Buckshnis commented the CAO reads very well. She referred to standard buffers, wetland categories and scoring of habitat and asked how the habitat score was determined. Mr. Lien explained the scores come from a wetland delineation which is a change in the science in the last ten years. When a wetland scientist delineates a wetland, a number of scores are calculated to categorize the wetland. One of those scores, largely on which buffer widths are based, is related to habitat; higher habitat scores require wider buffers. Councilmember Buckshnis referred to Category 1 Estuary such as the Edmonds Marsh which requires 150 feet. She asked if that was 150 feet from the ordinary high water mark (OHWM) like the SMP. Mr. Lien answered it is from the edge of the wetland which is same as the OHWM in the SMP.

Councilmember Buckshnis referred to the differentiation between setbacks and buffers in 23.80.070 and the addition of a buffer requirement. She recalled in the SMP some citizens took issue with including the buffer in the setback. Mr. Lien answered it a little different in the critical area regulations. He referenced building setbacks in 23.40.280. In the existing code the buffer is the area adjacent to the wetland, stream, or slope and there is an additional 15-foot building setback. The change in the draft COA is related to geologically hazardous area; the buffer or setback for geologically hazardous area is determined by a geotechnical report.

Councilmember Buckshnis referred to the section regarding mitigation ratios and the table of wetland categories and ratios for rehabilitation only and enhancement only (packet page 53 of 90). Mr. Lien explained this came from Department of Ecology's Guidance for Small Jurisdictions. Mr. Keeney explained the general concept is it is harder to create a new wetland than to rehabilitate an existing wetland. The intent is to encourage the use of natural systems rather than to make new ones. Ecology reviewed the scientific literature to develop these ratios; the primary driver of that science was Dr. Tom Ruby, Department of Ecology, who has experience in wetland modeling. Mr. Kenney summarized the table is basically Ecology's assimilation of all the science and making it applicable to land planning processes. Councilmember Buckshnis relayed her understanding of his explanation was Ecology would rather have a wetland enhanced than recreated. Mr. Keeney explained a lot more must be done to get the same credit for creation or reestablishment.

Councilmember Nelson expressed appreciation for the updated information regarding Bald Eagles. He referred to definitions and the experience/qualifications for geologist, geotechnical engineer and qualified critical area consultant, observing a geologist is no longer required to have a license and the experience

requirement was removed. Mr. Lien said that information was relocated in the code. He offered to email it to Councilmember Nelson.

Councilmember Johnson recommended when a penalty is assessed, restoration or rehabilitation also be required. Mr. Lien referred to 23.40.240 Unauthorized critical areas alterations and enforcement; paragraph B addresses requirement for a restoration plan.

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS SECONDED, TO EXTEND TO 10:10 P.M. MOTION CARRIED UNANIMOUSLY.**

Councilmember Bloom recalled the presentation identified tree topping as maintenance and if approval had been given in the past, approval would be given to top trees. She asked if there were any criteria for restricting or prohibiting tree topping. Mr. Lien explained tree topping is considered tree cutting; topping is generally frowned upon by arborists. A tree cutting permit is required to top a tree. A lot of trees in the City have been topped in the past. Once a tree is topped and grows out, the branches are not as strong and do not grow as well and it needs to be maintained which is why that provision is included. He clarified it did not refer to new topping but maintaining trees that had already been topped in a safe manner.

Councilmember Bloom asked if there was clarity in the code that tree topping was not allowed unless it was approved in the past. Mr. Lien read the definition of alteration, "Alteration" means any human-induced action which changes the existing condition of a critical area or its buffer. Alterations include, but are not limited to: grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that changes the existing landforms, vegetation, hydrology, wildlife or wildlife habitat value of critical areas." Councilmember Bloom relayed her understanding that the way the City finds out that any of that has occurred is via code enforcement. Mr. Lien answered generally yes.

Councilmember Bloom referred to small hydrologically isolated wetland (packet page 50 of 90) where the size was changed from 500 to 1,000. She asked whether the size of the smallest critical area had been increased to 1,000 from 500 square feet. Mr. Lien said most of the language is from the Guidance for Small Jurisdictions but was tweaked slightly so that a small hydrologically isolated wetland was no longer an exempt wetland but a specific category of wetland. Hydrologically isolated means it is not connected to a stream or other wetland complex. This section only applied to Category III and IV wetlands that have a low habitat score. He summarized these wetlands are not exempt but are exempt from a few of the provisions such as they do not necessarily have to have buffers, mitigation sequencing must occur before a wetland can be impacted but a mitigation plan must be developed to replace lost wetland functions and values. For example if a small wetland was filled, an onsite rain garden could be established to replace it. He clarified 500 square feet was in the existing code and 1,000 is from Ecology's Guidance for Small Jurisdictions.

Councilmember Bloom asked for an explanation of the in lieu fee program. Mr. Lien responded that was related to mitigation, a small site that impacted a wetland but there was no opportunity to mitigate on site. The in lieu fee program allows a property owner to put money toward wetland mitigation in another location. Councilmember Bloom asked if that wetland would be within the City. Mr. Lien answered typically it is desirable to have mitigation occur within the same drainage basin. The one instance where it may occur outside the City is via a certified wetland bank which has defined service areas. He did not envision Edmonds being within the service area of a certified wetland mitigation bank due to short drainages that go directly to Puget Sound.

Councilmember Bloom referred to discretion of the director as well as the term shall which appear a lot in the CAO. She was puzzled by the numerous opportunities for the discretion of the director when there were so many statements of shall. She asked how that was resolved. Mr. Lien said often someone in City must make a call; the director is the highest ranking person. There are definitions in the code where shall means imperative. Not everything in the critical area is imperative; when there is a judgment call, the director makes that decision.

Councilmember Bloom referred to the definition of director which means the City of Edmonds Development Services Director or his/her designee. She suggested tweaking the language to ensure it was the director's responsibility rather than someone the director designates. Mr. Lien explained ultimate authority falls to the director. How it works, there are four planners in the City, they do not go to the director to interpret every sentence in the code. Questions about the code or how the code is applied are brought to the director. Councilmember Bloom suggested the definition of director be the Development Services Director and delete designee. Development Services Shane Hope said the term "or designee" is used because it means the director makes the decision unless he/she designates someone else in his/her absence. The term director means the highest person responsible. Councilmember Bloom commented these decisions do not have to be made immediately so she felt any important decisions up to the discretion of director should be reviewed by director. She requested eliminating "his/her designee."

Mayor Earling suggested Councilmembers forward any additional questions to Mr. Lien.

Mr. Lien advised he will provide highlights and respond to any additional Council questions at the October 6 public hearing

**8. MAYOR'S COMMENTS**

Mayor Earling reported on the AWC legislative meeting he attended yesterday. The focus of the legislative session will be education, education, education. Elections are upcoming in 2016 for some of the Senate and all of the House so the legislative session will only be 60 days.

**9. COUNCIL COMMENTS**

Councilmember Nelson announced the Diversity Commission is seeking applicants; the deadline for applications is September 30.

Council President Fraley-Monillas reminded the public to get a flu shot. The vaccine is a better strain this year and it is important to get vaccinated early.

**10. CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

This item was not needed.

**11. RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

This item was not needed.

**12.     ADJOURN**

With no further business, the Council meeting was adjourned at 10:11 p.m.